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| 09/377,447      | 08/19/1999  | JEFFREY P. BEZOS     | AMAZON.012A1        | 7836             |

20995 7590 10/06/2004

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| EXAMINER |
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ZURITA, JAMES H

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| ART UNIT | PAPER NUMBER |
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3625

DATE MAILED: 10/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/377,447

Applicant(s)

BEZOS ET AL.

Examiner

James H Zurita

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-54, 56 and 57 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 12-25 and 38 is/are allowed.
- 6) ☒ Claim(s) 1-11, 26-37, 39-54, 56 and 57 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Notice of Appeal***

In view of the appeal brief filed on 1 August 2003, PROSECUTION IS HEREBY REOPENED. New grounds for rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Claims 1-54 and 56-57 are pending.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-54 and 56-57 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-11, 26-37, 39-54, 56-57 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts.

Claims 1, 26, 32, 43, 51 are directed to a method and its steps. Some of the claims mention a computer system in the preamble and would appear to recite technology. However, the bodies of the claims provide no specificity of how technology is applied in a meaningful, specific, non-trivial way to the computer system, and the technology is not active in the steps. Dependent claims 41-44, 12-17, 45-48, 26, 28, 29, 38, 40 are rejected on the same grounds.

Claim 57 is directed to a computer system that embodies the method of claim 51 and is therefore rejected on the same grounds.

To overcome this rejection the Examiner recommends that Applicant amend the claims to better clarify which of the steps are being performed within the technological

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arts, such as incorporating a computer network or electronic network into the method steps.

***Allowable Subject Matter***

Claims 1-11, 26-37, 39-54, 56-57 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 101, set forth in this Office action.

The following is a statement of reasons for the indication of allowable subject matter:

As in claim 1, prior art does not teach or suggest the combination of:

- providing a database which contains information about a plurality of user communities, wherein different communities represent different subsets of users of the sales system;
- tracking online purchases of items from the sales system by the users to generate purchase history data, and
- storing the purchase history data in a computer memory;
- processing at least the purchase history data to identify at least one item which, based on actions of both members and non-members of a selected community of said plurality of user communities, has a popularity level that is substantially greater within the selected community than outside the selected community; and
- notifying, electronically, users that the at least one item is popular within the selected community to assist users in selecting items from the electronic catalog.

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As in claim 26, Prior art does not teach or suggest the combination of:

- identifying a subset of users of the store that have email addresses that satisfy a particular criteria, wherein the subset comprises a plurality of users;
- identifying at least one item that characterizes the subset of users, wherein the step of identifying comprises
- processing purchase history data of the subset of users and of users falling outside said subset; and
- notifying, electronically, users of the online sales system of a relationship between the at least one item and the subset of users, to assist users in selecting items from the electronic catalog.

As in claim 32, Prior art does not teach or suggest the combination of:

- identifying a subset of a general population of users;
- tracking at least one type of user activity that indicates user affinities for particular items of the catalog to generate activity history data;
- processing the activity history data of the general population of users, including the subset of users, to identify a set of items that distinguish the subset from the general population; and
- notifying users of the catalog of a relationship between the set of items and the subset of users, to thereby assist the users of the catalog in selecting items therefrom.

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As in claim 43, Prior art does not teach or suggest the combination of:

- identifying, among a population of users of the electronic catalog, a subset of users that, based on user shipping addresses, reside in a common geographic region;
- monitoring actions of the subset of users, and of users falling outside the subset, to generate user activity history data reflective of user actions performed with respect to items in the electronic catalog;
- processing the user activity history data to identify an item whose popularity level among the subset of users is substantially higher than a popularity level of the item among the population of users; and
- notifying at least one user that a relationship exists between the item and the geographic region to assist the at least one user in selecting items from the electronic catalog.

As in claim 51, Prior art does not teach or suggest the combination of:

- storing email addresses of users of the electronic catalog;
- identifying, for each of a plurality of organizations, a respective group of said users who are deemed to be affiliated with the respective organization by virtue of a domain name of the respective organization occurring within an email address of each such user, to thereby identify a plurality of organization-specific groups of users;

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- tracking at least one type of user activity that indicates user affinities for particular items in the electronic catalog to generate activity history data for the users;
- analyzing, for each organization-specific group of users, the activity history data to generate a list of items within the electronic catalog that distinguish the organization-specific group from a general population of the users, to thereby generate a plurality of organization-specific popular items lists; and
- exposing the organization-specific popular items lists to the users of the electronic catalog in association with the organizations to which such popular items lists correspond, to allow users to identify items that are popular within specific organizations.

**Claims 12-25 and 38 are allowable.**

The following is an examiner's statement of reasons for allowance:

Prior art does not teach or suggest: the combination of:

at least one database which contains

purchase history data for users of the sales system, and which contains information about a plurality of user communities wherein different communities represent different subsets of users of the sales system; and

a computer process which

analyzes at least the purchase history data to identify items that have substantially higher popularity levels within particular communities of the plurality



of communities relative to their respective popularity levels among a general user population, and which

notifies users of the sales system of the items and associated communities for which such popularity level disparities exist, to thereby assist such users in selecting items from the electronic catalog.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

### ***Conclusion***

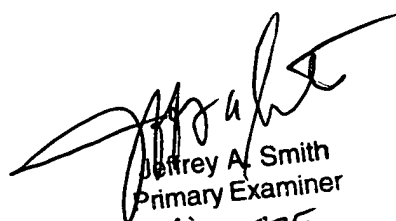
Any inquiry concerning this communication or earlier communications from the examiner should be directed to James H Zurita whose telephone number is 703-605-4966. The examiner can normally be reached on 8a-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on 703-308-3588. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*jt*  
**James Zurita**  
**Patent Examiner**  
**Art Unit 3625**  
30 September 2004

  
Jeffrey A. Smith  
Primary Examiner  
Acting SPE  
AU 3625